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VAN HANDEL, MICHAEL P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/037,005

Applicant(s)

MATZ ET AL.

Examiner

MICHAEL VAN HANDEL

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28, 31-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 8/21/2009. Claims **1-28, 31-37** are pending. Claims **1, 15, 36** are amended. Claims **29, 30, 38-50** are canceled.

Response to Arguments

2. Applicant's arguments regarding claims **1, 15, and 36**, filed 8/21/2009 have been fully considered, but they are not persuasive.

Regarding claims **1, 15, and 36**, the applicant argues that Vinson et al. does not teach or suggest receiving a request for a specific subscriber content-choice data, querying the clearinghouse database for the specific subscriber content-choice data, and responding to the request with the event timeline associated with the specific subscriber content-choice data. The examiner respectfully disagrees. Vinson et al. discloses storing subscriber data in a data center that is a central repository for all data gathered from a plurality of head-ends (p. 7, paragraph 101). This data is replicated to a database that is dedicated to Internet access (p. 7, paragraph 104). The Internet database is configured to provide dedicated access to a time-limited amount of viewership data. A web-based application can provide customers with access to data in the Internet database and can also analyze and report on such data. Web servers can provide a front-end query system for customizing such analyses and viewing reports (p. 8, paragraph 105). The customer begins by identifying a target demographic and selecting one or more cable television, satellite television, Internet, or other service providers (p. 22, paragraph 319 & Fig. 23). The

customer is provided with a graphical analysis of viewer demographic and other characteristics and the customer is able to customize defaults associated with the analysis (p. 25, paragraph 345 & Figs. 30, 31). The customer can select specific demographics and programs (p. 26, paragraphs 345, 346). When the user has configured the default settings to his or her liking, the user can begin viewing reports. The reports can indicate viewership data and demographics over a length of time in a graph (p. 26, paragraphs 350-352 & Figs. 32-35). The examiner interprets these graphs to be timelines, as currently claimed. As such, the examiner maintains that Vinson et al. discloses receiving a request for a specific subscriber content-choice data, querying the clearinghouse database for the specific subscriber content-choice data, and responding to the request with the event timeline associated with the specific subscriber content-choice data, as currently claimed.

Specification

3. The amendment to the specification, filed 8/21/2009, is hereby objected to and will not be entered.

Section (c) of The Incorporation by Reference section of MPEP 608.01(p) states that “essential material” may be incorporated by reference. “Essential material” is material that is necessary to provide a written description of the claimed invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and set forth the best mode contemplated by the inventor of carrying out the invention as required by the first paragraph of 35 U.S.C. 112.

In this case, the subject matter of the amendment to the specification does appear to be material to the claimed invention; however, the amendment to the specification does not provide a written description of the claimed invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same. That is, neither the instant application, nor the application incorporated by reference teaches the entirety of the claimed invention in full, clear, concise, and exact terms so as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same. The instant application is directed towards collecting subscriber content-choice data from a plurality of cable system operators and storing the data in a clearinghouse. The subscriber content-choice data is indicative of the content viewed by subscribers. Application 09/496,825 is directed towards tracking subscriber interaction with content (channel changes, etc.) and analyzing this interaction. Neither application discloses the entirety of the invention as currently recited in the claims, as required by the written description requirement of USC 112, first paragraph.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 36, 37 are rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory subject matter. The claims are directed towards a computer-readable medium; however, the examiner notes that the specification defines that the medium can be a transmission

device. Applicant's specification further states that the medium may transmit or carry instructions to a computer and may include a router, private or public network, or other transmission device or channel (p. 28, paragraph 77 of Applicant's specification). The examiner notes that a claim directed to a signal *per se* does not appear to be a process, machine, manufacture, or composition of matter. The examiner recommends that the specification be amended to remove the phrase "transmission device" phrase and the "various other forms of computer-readable media may transmit or carry instructions to a computer, including a router, private or public network, or other transmission device or channel" phrase. Alternatively, Applicant may amend the claim to recite a "non-transitory" computer-readable medium. See **MPEP 2106.01** for guidance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims **1-28, 31-37** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claims **1, 15, and 36**, Applicant states that support for the phrases "receiving a request for a specific subscriber content-choice data," "querying the clearinghouse database for

the specific subscriber content-choice data,” and “responding to the request with the event timeline associated with the specific subscriber content-choice data” may be found at paragraphs 52, 56, and 66 of the application. Paragraph 52 recites that subscriber content-choice data have been received by the clearinghouse from a plurality of cable operators and stored in the clearinghouse database and that the content-choice data may be transferred from the clearinghouse to the content provider. Paragraph 56 recites that the clearinghouse is able to sort and compile data in its database and provide it to the content provider in a desirable format. The clearinghouse processor receives the request for subscriber content-choice data and may query the clearinghouse database to produce the selected content-choice data. The processor may then compile and assemble the selected content-choice data before providing it to the content provider. Paragraph 66 recites that the cable television network or the advertiser may be interested in specific subscriber content-choice data for any number of reasons, for example, it may be interested in knowing the number of viewers of a particular broadcast that it had in a particular region. None of these paragraphs recite merging “clickstream data with content information to generate at least one event timeline that describes the content information and at least one subscriber’s actions over a period of time” or “responding to the request with the event timeline associated with the specific subscriber content-choice data.” The examiner fails to find mention of either “clickstream” data or a “timeline” in Applicant’s specification.

Claims 2-14, 16-28, 31-35, and 37 are rejected as being dependent on the aforementioned independent claims.

Art Unit: 2424

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims **1-8, 10-22, 24-36** are rejected under 35 U.S.C. 102(e) as being anticipated by Vinson et al. (of record).

Referring to claim **1**, Vinson et al. discloses a method for receiving subscriber content-choice information, comprising:

- collecting subscriber content-choice data from a plurality of service providers that merges clickstream data with content information to generate at least one event timeline that describes the content information and at least one subscriber's actions over a period of time along with (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker. Database tables are created indicating television viewing data over time)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; & Figs. 11, 22(a)-22(l));
- storing each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);

- receiving a request for a specific subscriber content-choice data (customers can access and sort through subscriber data through an Internet user interface)(p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320);
- querying the clearinghouse database for the specific subscriber content-choice data (p. 6, paragraph 89 & p. 22, paragraph 321); and
- responding to the request with the event timeline associated with the specific subscriber content-choice data (viewer data is sorted and displayed as a time-based graph)(p. 22, paragraph 321 & Figs. 32-35).

Referring to claims **2** and **16**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising assigning a classification to the subscriber's content-choice data (p. 21, paragraph 306).

Referring to claims **3** and **17**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to a television program received by the subscriber (p. 6, paragraphs 82, 83).

Referring to claims **4** and **18**, Vinson et al. discloses the method/system of claims 3 and 15, respectively, wherein the subscriber content-choice data comprises at least one of date information and time information related to the television program (p. 6, paragraph 83).

Referring to claims **5** and **19**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data further comprises data relating to the subscriber (p. 6, paragraph 84).

Referring to claims **6** and **20**, Vinson et al. discloses the method/system of claims 5 and 15, respectively, wherein the data relating to the subscriber comprises a subscriber identifier (p. 21, paragraph 304).

Referring to claims **7** and **21**, Vinson et al. discloses the method/system of claims 5 and 15, respectively, wherein the data relating to the subscriber comprises demographic data (p. 8, paragraph 114).

Referring to claims **8** and **22**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data further comprises data relating to a subscriber system (p. 7, paragraph 97).

Referring to claims **10** and **24**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to an advertisement received by the subscriber (p. 21, paragraph 306).

Referring to claims **11** and **25**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein the subscriber content-choice data comprises data relating to a viewing pattern of the subscriber (p. 12, paragraph 171).

Referring to claims **12** and **26**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, wherein receiving the request for the subscriber content-choice data comprises receiving an electronic request form that is standardized for all the service providers (p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claims **13** and **27**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising periodically requesting that the service providers send their respective subscriber content-choice data for storage in the database (p. 7, paragraphs 99-102).

Referring to claims **14** and **28**, Vinson et al. discloses the method/system of claims 1 and 15, respectively, further comprising sorting the collected subscriber content-choice data (p. 8, paragraphs 112, 113).

Referring to claim **15**, Vinson et al. discloses a system for receiving and distributing content-choice information, comprising:

- means for collecting subscriber content-choice data from a plurality of service providers that merges clickstream data with content information to generate at least one event timeline that describes the content information and at least one subscriber's actions over a period of time in a location (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker. Database tables are created indicating television viewing data over time)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; & Figs. 11, 22(a)-22(I));
- means for storing each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);
- means for receiving a request for the subscriber content-choice data that specifies the location (customers can access and sort through subscriber data through an Internet user interface)(p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320);

- means for querying the clearinghouse database for the location (geographic sub-market)(p. 22, paragraphs 320, 321); and
- means for responding to the request with the event timeline associated with the location (viewer data for the geographic sub-market is sorted and displayed as a time-based graph)(p. 22, paragraph 321 & Figs. 32-35).

Referring to claim **31**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on geographic location (p. 6, paragraph 90).

Referring to claim **32**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on subscriber classification data (p. 6, paragraph 90).

Referring to claim **33**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on data relating to television programs viewed by a plurality of subscribers (p. 6, paragraph 90).

Referring to claim **34**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on data relating to advertisements viewed by a plurality of subscribers (p. 21, paragraph 304).

Referring to claim **35**, Vinson et al. discloses the system of claim 15, further comprising means for selecting the subscriber content-choice data based on at least one of a viewing date and a geographic location (p. 22, paragraph 320).

Referring to claim **36**, Vinson et al. discloses a computer-readable medium storing computer program code for performing a method, the method comprising:

- collecting subscriber content-choice data from a plurality of service providers that merges clickstream data with content information to generate at least one event timeline that describes the content information and at least one subscriber's actions over a period of time along with a type of a service provider that provides the content chosen by the at least one subscriber and a name of the service provider providing the at least one subscriber's chosen content (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker. Database tables are created indicating television viewing data over time. The examiner notes that the customer selects one or more cable, satellite, television, Internet, or other service providers in retrieving viewer data)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; & Figs. 11, 22(a)-22(l));
- storing each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);
- receiving a request for the subscriber content-choice data that specifies the type of the service provider (customers can access and sort through subscriber data through an Internet user interface. Customers first specify one or more cable, satellite, television, Internet, or other service providers in retrieving viewer data)(p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320);

- querying the clearinghouse database for the subscriber content-choice data associated with the type of the service provider (p. 6, paragraph 89 & p. 22, paragraph 321); and
- responding to the request with the event timeline associated with the type of the service provider (viewer data is sorted and displayed as a time-based graph)(p. 22, paragraph 321 & Figs. 32-35).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims **9, 23, 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in view of Eldering et al. (of record).

Referring to claims **9, 23, and 37**, Vinson et al. discloses the method/system/computer-readable medium of claims 1, 15, and 36, respectively. Vinson et al. further discloses associating monitored user data with data describing service provider type, name, and geographical location (p. 6, paragraph 90 & p. 22, paragraphs 319, 320). Vinson et al. further discloses combining the monitored user data of multiple users and providing subscribers with access to the monitored data through a web-based system (p. 6, paragraph 89 & Figs. 26-35). Vinson et al. does not specifically disclose that collecting the subscriber content-choice data comprises receiving an eXtensible Markup Language file having linear data describing the type of service provider, the

name of the service provider, and a location associated with the service provider. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. At least one type of subscriber profile from a subset of subscriber characteristics is generated. Groups are formed by correlating at least one type of subscriber profile. Groups may correlate elements of a content delivery system, such as head-ends (see Abstract). Eldering et al. further discloses monitored viewing characteristics include network preference, genre preference, and geographical location (p. 2, paragraph 25 & p. 5, paragraph 84). Eldering et al. still further discloses aggregating portions of the monitored information to create a subscriber profile. The profile is stored in an XML format (p. 11, paragraph 134). The examiner notes that XML inherently stored data in a linear, line-by-line textual format. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to store the monitored user data of Vinson et al. in an XML format, such as that taught by Eldering et al. in order to use a standardized format to ensure that multiple data files can be combined and manipulated (Eldering et al. p. 11, paragraph 134).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Christopher Kelley/
Supervisory Patent Examiner, Art Unit
2424

MV